

**To:** Richard E. Wardwell, Chair  
Members of the Board of Environmental Protection

**From:** Susan P. Davies MDEP Biological Monitoring Program,  
Environmental Assessment, Bureau of Land and Water Quality

**Subject:** BIOLOGICAL CRITERIA FOR MAINE RIVERS AND STREAMS

**Date:** 28 March 2003

\*\*\*\*\*

STATUTORY AND REGULATORY REFERENCE:

Water Statutes Title 38 Article 4-A Water Classification Program §464.5. (*An Act to Amend the Classification System for Maine Waters*)

LOCATION OF INTEREST:

Statewide

DESCRIPTION:

The Water Statute, Title 38 Article 4-A §464.5, requires the Board of Environmental Protection to promulgate rules necessary to implement the water quality classification system and specifically directs promulgation of rules for the evaluation of impacts on the resident biological communities of rivers and streams. The rule addresses the directive by codifying the technical procedures used by the Department of Environmental Protection to determine attainment of statutory aquatic life standards. The Board heard a staff presentation on the biocriteria rule on October 3, 2002, the rule was posted to public hearing on December 5, 2002 and the Board held a public hearing on January 16, 2003. Written comments were accepted until February 3, 2003

The attached document presents the comments offered by the commenters at hearing and in writing, and the Department's response to those comments. Comments were received from nine individuals or entities. At the public hearing 3 commenters offered oral testimony *In Support* (B, E, G\*) and 1 commenter spoke *Neither For Nor Against* (A). Three letters expressing support for the rule were received from entities that did not attend the public hearing (C, D, H). Numbered comments and responses on the attached Response to Comments reflect the substantive concerns expressed in writing.

DEPARTMENT RECOMMENDATION:

The Board is requested to review and vote on adoption of the Biocriteria rule.

ESTIMATED TIME OF PRESENTATION: Fifteen minutes

*\*The letter in parentheses at the end of the comment corresponds to the commenters listed on the Response to Comments.*